IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 26TH OCTOBER 2006 / 4TH KARTHIKA 1928

RP.No. 806 of 2002(B)

AGAINST THE JUDGEMENT/ORDER IN LAA.106/1999 Dated 28/06/2002
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REVIEW PETITIONERS / APPELLANTS
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1. CHUNNAMBI SANKARAN,
SON OF AMBU, RAMANTHALI AMSOM AND DESOM,
KANNUR DISTRICT.

2. K.P.MADHAVI,
WIFE OF SANKARAN, RAMANTHALI AMSOM
AND DESOM, KANNUR DISTRICT.

BY ADV. SRI.O.RAMACHANDRAN NAMBIAR

RESPONDENTS: RESPONDENT

THE SPECIAL TAHSILDAR,
LAND ACQUISITION, THALASSERY, KANNUR
DISTRICT.

BY GOVERNMENT PLEADER SRI.M.R.SABU

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 26/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R. RAMAN, J.

R.P. NO. 806/2002 IN L.A.A. 106/1999

DATED THIS, THE 26TH OCTOBER, 2006.

O R D E R

This is a petition seeking review of the judgment dated 28.6.2002 in L.A.A. NO. 106/1999 on a limited question. Review petitioners are the appellants/claimants. They approached the District Collector for enhanced compensation under Section 28A of the Kerala Land Acquisition Act. The District Collector awarded compensation based on the judgment in L.A.R. 124/1987. However, the District Collector did not grant interest on the additional compensation awarded under Section 34 of the Act. Petitioners were also not satisfied with the compensation as awarded by the District Collector. Hence there was a reference made under Section 28A(3) of the Act. The land acquisition court granted further enhancement and also awarded interest under Section 28 of the Act on the enhanced compensation. In the appeal preferred before this Court, it was contended that the land acquisition court ought to have awarded interest on the entire amount and the additional compensation including the compensation as awarded by the District Collector under Section 28 A of the Act. That

contention was repelled holding that the court can grant interest under Section 28 only on the enhanced compensation as awarded by the court.

2. In the review petition, it is urged that the District Collector himself ought to have granted interest under Section 34 of the Land Acquisition Act on the enhanced compensation awarded. It is contended that even though a contention was raised before the Land Acquisition Court that the petitioner is entitled for all the statutory interest, that aspect was not specifically dealt with by the Land Acquisition Court. It is therefore urged in the review petition that the District Collector, while passing the order under Section 28A ought to have granted interest as provided for under Section 28A on the compensation amount. Reliance is placed on the decision of this Court in **Kallianikutty Amma v. The Special Tahsildar** (LA)2003(1) KLT 1014 wherein it is held that the Land Acquisition Officer ought to have granted interest under Section 34 on the enhanced compensation when he re-determined the compensation under Section 28A. In this case, advance possession was taken on 29.5.1984 and the original award was passed by the Land Acquisition on 20.4.1984 which is prior to the amendment brought out in September, 1984.

3. In this connection, it has to be noticed that under Section 28 of the Land Acquisition Act, the court can direct the District Collector to pay interest on such excess compensation as awarded by the court at the rate of

9% per annum from the date on which he took possession of the land to the date of payment of such excess compensation by the court. Section 28A is a provision for re-determination of the compensation on the basis of the award passed by the court in similar cases. As per section 34 when the amount of such compensation is not paid or deposited on or before taking possession of the land, the District Collector shall pay the amount awarded with interest thereon at the rate of 9% per annum from the date of taking possession until it is so paid or deposited. Thus, the expression "such compensation" takes in the additional compensation awarded by the District Collector under Section 28A. But admittedly no interest was awarded on the additional compensation awarded by the District Collector under Section 28A, which is a statutory benefit entitled to by the claimants.

4. In such circumstances, the review is allowed. It is declared that the review petitioners/appellants are entitled for interest at 9% per annum from the date of taking possession until the additional compensation was deposited or paid, for a period of one year and thereafter at the rate of 15% per annum till such payment/deposit is made.

The judgment and decree passed by this Court in the Land Acquisition Appeal will stand modified accordingly.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.
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R.P. 806/2002 IN
L.A.A. 106/1999

O R D E R

DATED: 26.10.2006